

FILED

December 21, 2004

Charles R. Fulbruge III
Clerk

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 04-10510
Summary Calendar

GLENDAY KAY HUNTER,

Plaintiff-Appellant,

versus

JO ANNE B. BARNHART, COMMISSIONER OF SOCIAL SECURITY,

Defendant-

Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:03-CV-391-A

Before WIENER, BENAVIDES AND STEWART, Circuit Judges.

PER CURIAM:*

Glenda Kay Hunter appeals from the district court's judgment affirming the Commissioner of Social Security's denial of disability benefits. She argues that the Administrative Law Judge's (ALJ) decision was not supported by substantial evidence because the ALJ failed to give due consideration to the retrospective opinions of her physicians, failed to consider the non-exertional impairments she alleged, and failed to solicit the opinion of a medical expert regarding the date that

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

her medical impairments became disabling. After reviewing the briefs and the record, we conclude that the ALJ applied the correct legal standard and that the decision was supported by substantial evidence. See Harris v. Apfel, 209 F.3d 413, 417 (5th Cir. 2000); Griego v. Sullivan, 940 F.2d 942, 945 (5th Cir. 1991); Carrier v. Sullivan, 944 F.2d 243, 247 (5th Cir. 1991); Spellman v. Shalala, 1 F.3d 357, 361-64 (5th Cir. 1993).

Hunter asserts that the ALJ erred by failing to include a portion of the medical records in the administrative record. However, the absence of the medical records does not affect Hunter's substantial rights. See Anderson v. Sullivan, 887 F.2d 630, 634 (5th Cir. 1989).

AFFIRMED.